THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.28064 of 2005

DATED: 25.01.2006

Between:

Abdul Irfan Amoodi

…Petitioner

A n d

A.P.Housing Board, rep. By its Chairman, and others.

…Respondents

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ORDER:

The petitioner is in occupation of the land admeasuring 68.19 Square yards in a busy area of Hyderabad, known as Afzal Gunj. It appears, on 01.09.2003, the A.P.Housing Board (APHB) issued a notice offering the land to the petitioner for sale at the rate of Rs.20,000/- per square yard, and the petitioner was asked to give his willingness in fifteen days from the date of receipt of the said notice. The petitioner allegedly sent a communication on 12.09.2003 accepting the offer and also requested to issue a letter accepting the offer to enable him to make the payment. The offer was not accepted in spite of the approach made by the petitioner. Therefore, he filed the present writ petition seeking a direction to the APHB to pass necessary orders allotting the land to the petitioner on outlet sale basis.

At the stage of admission itself, a counter affidavit and reply thereto are filed. It is the case of APHB that though initially the land was offered to the petitioner, subsequently the offer was withdrawn as per the policy of APHB not to sell the Housing Board lands otherwise than by public auction. It is also stated that one Mohd.Saifullah made a representation, requesting sale of 75 square yards of land for market value. As per the Government Orders, the same was accepted and while the matters were pending before APHB in that regard, Saifullah filed W.P.No.3499 of 1978, and the same was dismissed by the learned Single Judge as well as the Division Bench in W.A.No.113 of 1979. The Supreme Court passed orders in SLP/Civil Appeal filed by the legal heirs of Saifullah directing the sale of land of 75 square yards to Mohd.Saifullah and 82 square yards to one Mohd.Ismail. The Government also issued orders in G.O.Ms.No.44, dated 27.04.2000, permitting to sell the above said land. But, those persons failed to pay the amount. Therefore, APHB sought legal opinion and decided to evict all the occupants from the land. Accordingly, application under Section 52 of the A.P.Housing Board Act, 1956 (for short 'the APHC Act'), was filed, which is pending. It is also averred that the competent authority issued notice to the petitioner and other occupants.

In the reply affidavit filed by the petitioner, reliance is placed on the orders of the Supreme Court in Civil Appeal No.2744 of 1982 claiming parity in the treatment in the matter of sale of Housing Board land.

The learned Counsel for the petitioner, Mr.Nazir Ahmed Khan, submits that similarly situated persons approached this Court and their claim was rejected, but the Supreme Court directed the Housing Board to sell the land to the occupants. The learned Counsel submits that applying of principle of equality, the petitioner is entitled to the similar treatment, especially when the offer was already made by APHB to the petitioner. **Per contra**, the learned Standing Counsel for APHB, Sri J.Prabhakar, submits that the initial proposal to sell the land to the petitioner was already withdrawn, and the APHB has filed an application before the competent authority for eviction of the petitioner, who is in illegal occupation of the Housing Board land. Therefore, he submits that the petitioner cannot claim any right to compel APHB to sell the land to him.

It is now well settled that no public authority can be compelled to sell its land or property to a citizen. It is also well settled that whenever public property is to be disposed of, maximum public interest can be sub-served by putting the property to public auction to ensure transparency in the transaction. Any method of disposal of public property, otherwise than by public auction, would be arbitrary. Indeed, as per the provisions of the APHB Act, it has to dispose of the property only by public auction. Therefore, this Court is not inclined to grant any mandamus in favour of the petitioner compelling the APHB to sell the land. Secondly, APHB has already initiated steps for eviction of the petitioner from the land and if at this stage a direction is issued, the same would bar the exercise of jurisdiction by the competent authority, who is seized of the petition for eviction filed by the APHB. It is always open to the petitioner to raise his defence before the competent authority as and when he receives notice. In this writ petition, no relief can be granted as prayed for.

The Writ Petition, with the above observations, is dismissed. No costs.

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(V.V.S.RAO, J)

25.01.2006

vs